FILED

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2014 MAY 16 P 4: 19

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

LINKGINE, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action No.** 1:14-cv-570 (CMH/TRJ)
	)	
VIGLINK, INC.,	)	
	)	
Defendant.	)	
	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Linkgine, Inc. ("Linkgine") brings this Complaint for patent infringement against defendant VigLink, Inc. ("VigLink"), and hereby states as follows:

NATURE OF THE ACTION

This is an action for patent infringement of United States Patent No. 7,818,214 (the "'214 Patent") and United States Patent No. 8,027,883 (the "'883 Patent") (collectively, the "Patents-in-Suit") under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and seeking damages and injunctive and other relief under 35 U.S.C. § 281, *et seq.*

PARTIES

1. Linkgine, Inc. is a corporation existing under the laws of Delaware, with its principal place of business at 2300 Wilson Boulevard, Suite 204, Arlington, Virginia 22201. Linkgine's Chief Technical Officer, Will Donaldson, is the sole named inventor of the Patents-in-Suit. In 1996, Mr. Donaldson was appointed the first webmaster for the United States Marine Corps. Since then Mr. Donaldson has resided in Arlington and Linkgine has conducted its business from within the Eastern District of Virginia and within the Alexandria Division.

2. Defendant VigLink, Inc. is a corporation operating and existing under the laws of Delaware, with its principal place of business at 539 Bryant Street, Suite 400, San Francisco, California 94107. Defendant VigLink is engaged in the business of online affiliate marketing. Defendant conducts business within the Eastern District of Virginia and within the Alexandria Division, including performing the steps of the infringement alleged herein.

JURISDICTION AND VENUE

3. This is a complaint for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over VigLink because it conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringement alleged herein; (ii) causing infringing software processes and methods to be performed in this district; and (iii), regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district, deriving substantial revenue from services provided to individuals in this district, maintaining continuous and systematic contacts with this district, and/or purposefully availing itself of the privileges of doing business in Virginia.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b), because VigLink is subject to personal jurisdiction in this judicial district and has committed and continues to commit acts of infringement in this judicial district.

FACTUAL BACKGROUND

7. On October 19, 2010, the United States Patent and Trademark Office ("USPTO") duly and lawfully issued the '214 Patent, titled "Affiliate Manipulation System and Method." The '214 Patent is attached hereto as **Exhibit A**.

8. On September 27, 2011, the USPTO duly and lawfully issued the '883 Patent, titled "Affiliate Manipulation System and Method." The '883 Patent is attached hereto as **Exhibit B**.

9. Each of the Patents-in-Suit is valid and enforceable.

10. Linkgine is the assignee of all rights, title, and interest in and to the Patents-in-Suit. Linkgine holds the right to sue and recover damages for infringement thereof, including past infringement.

11. The technology protected by the Patents-in-Suit allows Internet users to optimally monetize content they publish on the Internet through affiliate programs. A traditional affiliate program includes four parts: (i) a Buyer; (ii) a Retailer; (iii) a publisher, also known as an Affiliate; and (iv) a Network for payments.

12. When an individual publishes content on the Internet discussing products available for purchase, that individual (the "Affiliate") can provide a link to a Retailer who sells the products. If a Buyer clicks on that link and then purchases the product, the Affiliate potentially receives a commission from the Retailer through a Network. To ensure credit is given to the Affiliate, the links to the Retailer contain a specific code ("Affiliate ID") that identifies the specific Affiliate to whom commission should be paid.

13. By way of example, suppose an Affiliate maintains a photography blog discussing a certain camera model. The Affiliate can create an Affiliate Link to the Retailer. This Affiliate Link contains the data necessary to identify the Affiliate to direct Buyers to a

Retailer who sells the camera. If the Buyer clicks that Affiliate Link and then purchases the camera, the Retailer will pay the Affiliate a commission through the Network.

14. Linkgine improved upon the existing Affiliate program by identifying additional opportunities and automating the modification of Affiliate Links, thus providing a mechanism to optimize the revenue to Affiliates. In the example above, an Affiliate Link for a camera is directed to a specific Retailer. Linkgine's patented methodology dynamically analyzes the link to identify other possible Retailers for the camera and includes the most appropriate link to the Buyer. This optimization can be based on a nearly unlimited set of criteria that ultimately result in improved revenue and/or benefits to the Affiliate. Exemplary criteria include the location of the product, availability of the product, Retailer pricing of the product, substitute brands for the product, commission rate paid by the Retailer, or other preferences of the Affiliate.

15. Defendant VigLink, directly or through intermediaries, has acted and is acting to allow Internet users to optimally monetize content they publish on the Internet through affiliate programs. VigLink's core service suite, which encompasses VigLink Convert and VigLink Anywhere, provide the exact same platform and process as Linkgine's patented methodology. This platform and process have been and continue to be used by consumers in the United States, the Commonwealth of Virginia, and the Eastern District of Virginia.

16. Defendant VigLink employs infringing software methods and processes to automatically analyze links published on the Internet and automatically update the links, through at least its VigLink Convert and VigLink Anywhere services. VigLink's making, selling, using and offering for sale of these automatic updating methods and processes infringe, either literally or by equivalents, one or more claims of the Patents-in-Suit in violation of 35 U.S.C. § 271. Defendant VigLink causes its infringing software methods and

processes to be performed on servers, at least some of which are located in this judicial district and within the Alexandria Division.

COUNT I: INFRINGEMENT OF THE '214 PATENT

17. Linkgine realleges and incorporates by reference paragraphs 1-16.

18. VigLink, as part of the provision and use of its affiliate-link updating platforms, including VigLink Convert and VigLink Anywhere, has used and continues to use software processes in the United States for automatically updating affiliate links in Internet content, and has made, used, offered to sell, and/or sold, and continues to make, use, offer to sell, and/or sell, services using those processes in the United States, including in this judicial district. By using the aforementioned software processes, VigLink has directly infringed the '214 Patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, including direct infringement of independent claims 1 and 7 and one or more claims dependent on claim 1.

19. VigLink has had knowledge of the '214 Patent since at least as early as November 2013, through oral and written discussions between VigLink's Chief Executive Officer Oliver Roup and Roy Moffett, Chief Operating Officer of Linkgine, regarding the patented technology, including the identification of the '214 Patent. Since learning of the '214 Patent, VigLink has continued to use the software processes in its VigLink Convert and VigLink Anywhere services to infringe the '214 Patent.

20. The further provision and/or use by VigLink of the aforementioned affiliate-link updating platforms, including VigLink Convert and VigLink Anywhere, demonstrates a deliberate and conscious decision to infringe the '214 Patent or, at the very least, a reckless disregard of Linkgine's patent rights. By continuing to provide or use the aforementioned affiliate-link updating platforms following its notice of the '214 Patent claims, VigLink's infringement is willful and Linkgine is entitled to treble damages and attorneys' fees and

costs incurred in this action, along with prejudgment interest, under 35 U.S.C. §§ 284 and 285.

21. VigLink, by way of its infringing activities, has caused and continues to cause Linkgine to suffer damages in an amount to be determined at trial. Linkgine has no adequate remedy at law against VigLink's acts of infringement and, unless VigLink is enjoined from its infringement of the '214 Patent, Linkgine will suffer irreparable harm.

COUNT II: INFRINGEMENT OF THE '883 PATENT

22. Linkgine realleges and incorporates by reference paragraphs 1-21.

23. VigLink, as part of the provision and use of its affiliate-link updating platforms, including VigLink Convert and VigLink Anywhere, has used and continues to use software processes in the United States for automatically updating affiliate links in Internet content, and has made, used, offered to sell, and/or sold, and continues to make, use, offer to sell, and/or sell, services using those processes in the United States, including in this judicial district. By using the aforementioned software processes, VigLink has directly infringed the '883 Patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, including direct infringement of independent claims 1 and 8 and one or more claims dependent on claim 1.

24. VigLink has had knowledge of the '883 Patent since at least as early as November 2013, through oral and written discussions between VigLink's Chief Executive Officer Oliver Roup and Roy Moffett, Chief Operating Officer of Linkgine, regarding the patented technology, including the identification of the '883 Patent. Since learning of the '883 Patent, VigLink has continued to use the software processes in its VigLink Convert and VigLink Anywhere services to infringe the '883 Patent.

25. The further provision and/or use by VigLink of the aforementioned affiliate-link updating platforms, including VigLink Convert and VigLink Anywhere, demonstrates a

deliberate and conscious decision to infringe the '883 Patent or, at the very least, a reckless disregard of Linkgine's patent rights. By continuing to provide or use the aforementioned affiliate-link updating platforms following its notice of the '883 Patent claims, VigLink's infringement is willful and Linkgine is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest, under 35 U.S.C. §§ 284 and 285.

26. VigLink, by way of its infringing activities, has caused and continues to cause Linkgine to suffer damages in an amount to be determined at trial. Linkgine has no adequate remedy at law against VigLink's acts of infringement and, unless VigLink is enjoined from its infringement of the '883 Patent, Linkgine will suffer irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Linkgine respectfully requests that this Court enter judgment in its favor as follows:

A. Holding that VigLink has willfully infringed the '214 Patent, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a);

B. Holding that VigLink has willfully infringed the '883 Patent, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a);

C. Permanently enjoining VigLink and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the '214 Patent;

D. Permanently enjoining VigLink and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the '883 Patent;

E. Permanently enjoining the use of VigLink's affiliate-link updating platforms using the patented methods of the Patents-in-Suit;

F. Awarding to Linkgine the damages to which it is entitled under 35 U.S.C. § 284 for the VigLink's past infringement and any continuing or future infringement up until the date VigLink is finally and permanently enjoined from further infringement, including compensatory damages and treble damages for willful infringement;

G. Declaring this to be an exceptional case and awarding Linkgine attorneys' fees under 35 U.S.C. § 285;

H. Awarding Linkgine costs and expenses in this action;

I. Awarding Linkgine pre- and post-judgment interest on its damages; and

J. Awarding Linkgine such other and further relief in law or in equity as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Linkgine, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: May 16, 2014

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By: *[signature]*
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